



A Place to Call Home

Strategies for Affordable and Accessible Housing

Booklet Four

Fair Housing

Indiana Governor's Planning Council
for People with Disabilities
and
Center on Community Living and Careers
Indiana Institute on Disability and Community
Indiana's University Center for Excellence
Indiana University

This material was produced with the assistance of the Indiana Housing Finance Authority under the National Affordable Housing Act of 1990, as amended, using HOME Investment Partnerships Program funds allocated by HUD.

A Place to Call Home, Strategies for Affordable and Accessible Housing comprises a series of five booklets. The full series contains:

- Booklet 1: Rental Housing
- Booklet 2: Homeownership
- Booklet 3: Home Modifications
- Booklet 4: Fair Housing
- Booklet 5: The Consolidated Plan

Copies of Booklet 4: Fair Housing and other titles in this series are available from:

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The Center on Community Living and Careers is one of seven centers located at the Indiana Institute on Disability and Community, Indiana University, Bloomington. The work of the Indiana Institute encompasses the entire life span, from birth through older adulthood, and address topical areas that include:

- | | |
|-------------------------------|--|
| ☐ Young children and families | ☐ Autism |
| ☐ School inclusion | ☐ Information and referral |
| ☐ Transition | ☐ Planning and policy studies |
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The Indiana Institute on Disability and Community pursues its mission with support from Indiana University and funding from federal and state agencies and foundations.

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Fair Housing

What is Fair Housing?

Fair housing is based upon the premise that housing should be a free choice.

What are the Fair Housing and Amendments Act?

Title VIII of the Civil Rights Act of 1968, is commonly known as the Federal Fair Housing Act. The Federal Fair Housing Act prohibits discrimination in the sale, rental, financing of housing, and in other housing related transactions. The Federal Fair Housing Act was amended in 1988, becoming the Fair Housing Amendments Act (FHAA). The FHAA was intended to include enforcement of fair housing requirements and added familial status and disability to the existing five classes protected under the Fair Housing Act. The FHAA now prohibits discrimination in the area of housing based upon the following seven groups, commonly referred to as “protected classes”:

- ▶ Race
- ▶ Color
- ▶ National origin or ancestry
- ▶ Religion
- ▶ Gender
- ▶ Familial status (e.g., children living with parents; pregnant women)
- ▶ Disability

In relation to people with disabilities, the FHAA serves to:

- ▶ Give people with disabilities opportunities to choose where they want to live;
- ▶ Assure that reasonable accommodations and reasonable modifications are made so that a person with a disability can secure and use housing as fully as a person without a disability.

- ▶ Assure that persons with disabilities are able to live free from intimidation and harassment; and
- ▶ Require that multi-family housing built for first occupancy after March 13, 1991, has certain accessible features. (e.g., A usable kitchen for a person who uses a wheelchair.)

What is the definition of disability used within the FHAA?

People with disabilities receive protection under the FHAA like other persons protected based on race, color, national origin, gender, religion, and familial status. The definition of disability is:

- ▶ Having a physical or mental impairment that substantially limits one or more major life activities, and/or;
- ▶ Having a record of this type of physical or mental impairment, and/or;
- ▶ Being perceived by another as an individual with a physical or mental impairment.

A number of civil rights laws apply to persons with disabilities and most of these laws use the same general definition of disability (e.g., Section 504 of the Rehabilitation Act of 1973).

What dwellings are covered under the FHAA?

Most buildings or structures that are intended for occupancy by one or more families are covered by the FHAA. This includes vacant land that is intended for housing.

There are some exemptions from the FHAA requirements. These include the following:

- ▶ A religious organization may give preference to persons of the same religion (unless restricted on account of race, color or national origin) in non-commercial transactions;
- ▶ A private club may provide lodgings for members in non-commercial transactions;
- ▶ An owner who owns four (4) units or less and lives in one unit;
- ▶ An owner who does not own more than three single family houses, **if** the owner does not use the services of a broker, and **if** the owner does not use discriminatory advertising, and **if** the owner has not participated in three or more rental or sales transactions in a one year period;
- ▶ Housing for elders may exclude families with children. For example, housing may be designated for people ages 62 years or older only. Also housing that serves people age 55 and older, where 80% of the housing is occupied by at least one person who is 55 or older, is exempt.

What are prohibited activities?

In the sale or rental of housing no one may take any of the following actions based on disability, race, color, national origin, religion, gender, or familial status:

- ▶ Refusal to rent or sell housing;
- ▶ Misrepresent the availability of housing;
- ▶ Refuse to negotiate for housing;
- ▶ Impose different terms and/or conditions or sale or rental of housing;
- ▶ Discourage prospective home buyers or tenants from selecting property because of the racial or ethnic composition of the neighborhood;
- ▶ Pressure people to sell their homes because members of a protected class are moving into their neighborhood;
- ▶ Impose different terms or conditions on a loan (e.g., different interest rates, points or fees) because of the ethnic make-up of the neighborhood in which the property is located;

- ▶ Set unreasonable occupancy limitations (e.g., occupancy limitations may not be based on the number of children).

In addition, it is illegal for anyone to:

- ▶ Engage in discriminatory advertising. Advertising may be discriminatory if it indicates or implies a preference for or against a protected class. (This prohibited activity applies also to single family and owner-occupied housing that is otherwise exempt from the Fair Housing Act.)
- ▶ Intimidate or interfere with anyone who exercises a fair housing right, or assists others who exercise their rights.

What are the accessibility requirements for new construction of multi-family structures as listed in the Fair Housing Amendments Act of 1988?

The following list outlines the seven accessibility requirements for new construction (built for first occupancy after March 13, 1991) of multi-family structures of four or more units.

1. Accessible building entrance on an accessible route.
2. Accessible public and common use areas.
3. Usable doors, sufficiently wide for persons using wheelchairs.
4. Accessible routes into and through the dwelling unit.
5. Light switches, electrical outlets, thermostats and other environmental controls in accessible locations.
6. Reinforced walls in bathroom to allow later installation of grab bars.
7. Usable kitchens and bathrooms for persons who use wheelchairs.

Are there additional protections for people with disabilities?

Yes, there are additional protections for people with disabilities. Landlords are prohibited from refusing to make reasonable modifications and/or reasonable accommodations.

What is considered a “reasonable modification”?

A tenant may make physical alterations to the housing unit at his or her own expense, if such modifications are necessary to allow full use and enjoyment of the premises. The landlord may approve a modification subject to an agreement that the tenant will restore the interior of the premises to its original condition before terminating occupancy. For example, a tenant may install grab bars in the bathroom, and upon moving, be asked to remove the grab bars and restore the bathroom to its original condition.

What is considered a “reasonable accommodation”?

The landlord or leasing agent must make reasonable accommodations to its rules, policies, procedures or services so that a person with a disability has an equal opportunity to use and enjoy a dwelling. For example, a building with a “no pets” policy must allow a person with a visual impairment to keep a service dog.

What Indiana laws also protect people’s equal access to housing?

Two primary laws that assure equal access to housing are the Indiana Fair Housing Act and the Indiana Civil Rights Law.

What is the Indiana Fair Housing Act?

Indiana Code, §22-9.5-5-1 et seq., commonly known as the Indiana Fair Housing Act (IFHA), was passed by the Indiana General Assembly in 1991. The IFHA incorporates into Indiana’s laws most of the terms of the FHAA. The Indiana Fair Housing Act prohibits discrimination in the sale, rental and financing of housing, and in other housing related transactions based upon disability, race, color, religion, gender, national origin or family status.

Like its federal counterpart, the Indiana Fair Housing Act protects the rights of persons with disabilities to request reasonable accommodations and modifications.

Indiana Civil Rights Law

The Indiana Civil Rights Law (Indiana Code 22-9-1) states that it is the public policy of the State to provide its citizens equal opportunity in the purchase or rental of property and housing. This law applies to both residential and commercial properties, and includes all protected classes except familial status. It applies to all housing units regardless of the number of units owned by the landlord.

What if you think your rights have been violated?

If you are a person with a disability and you believe you have been discriminated against because of your disability, there are a number of actions open to you. These may include:

- ▶ Self-advocacy;
- ▶ Working with disability advocacy organizations;
- ▶ Filing complaints with governmental agencies, and;
- ▶ Seeking legal assistance.

Self-advocacy

It is suggested that you consider self-advocacy before approaching a governmental agency. Self-advocacy may begin with an informal discussion with a housing provider, where you indicate that because of your disability, you need certain accommodations or modifications. This may also include making a formal request in writing to create documentation for your records.

Working With Disability Advocacy Organizations

If self-advocacy does not work, seeking the assistance of an advocacy group (e.g., Independent Living Center) to assist you in your advocacy efforts or advise you of options can be helpful.

Filing a Complaint

Any aggrieved party who believes that they have been discriminated against can file a complaint within one year. Aggrieved parties may include Fair Housing organizations and testers (see below for more information on Fair Housing Testers).

To file a complaint contact:

The Indiana Civil Rights Commission
Toll free: 800-628-2909
Hearing Impaired: 800-743-3333
E-mail: sleek@crc.state.in.us

or

Call HUD's toll-free complaint line
800-669-9777

Please note that: if HUD determines that the Indiana Civil Rights Commission (ICRC) or your local fair housing agency has the same fair housing powers as HUD, HUD may refer your complaint to that agency and notify you of the referral.

Accommodations

For people with disabilities fair housing agencies are prepared to make a number of accommodations to assist individuals in filing a complaint, including:

- ▶ A TTY phone for people who are hearing impaired or deaf;
- ▶ Interpreters;
- ▶ Materials in braille and on cassette tapes;
- ▶ Assistance in reading and completing forms.

What happens when you file a complaint?

After a complaint has been filed, HUD, the ICRC or a local enforcement agency will conduct a thorough investigation. If the investigation shows that it is likely that discrimination occurred, a finding of "reasonable cause" will be made. The complaint will then proceed to a trial in state court before an administrative tribunal which may impose monetary fines against the offending party. These fines may compensate a person who has suffered from discriminatory activity for damages incurred, including damages for emotional distress suffered.

For more information on the complaint process look at these web sites:

ICRC web site: <http://www.state.in.us/icrc/>
(click on "Processing a Complaint")

Or

HUD web site: <http://www.hud.gov>
(click on "Fair Housing" and "Housing Discrimination Complaint Form")

Seeking Legal Assistance

Any aggrieved party who believes that they have been discriminated against can initiate an action on their own behalf, with the aid of a private attorney, in state court within one year of the discriminatory event, or in federal court within two years of the event.

What is the ICRC Tester Program?

The Indiana Civil Rights Commission (ICRC) has developed a testing program designed to uncover patterns of discrimination. Testers are trained individuals who simulate the circumstances of alleged discriminatory treatment. Their responsibility is to observe what occurs and record their experiences. It is the policy of the ICRC to recruit and train testers from a wide variety of backgrounds.

Testing is a controlled method to determine differential treatment in the quality, content and quantity of information and services given to protected classes under the civil rights law.

The tester program is a vital part of the litigation process. Comprehensive training is provided for each tester. Evidence secured by testers may impact greatly upon the outcome of a court case. *Testers receive compensation for each test they complete.* Tests are completed on an as needed basis.

For more information contact:

Indiana Civil Rights Commission
Toll-free: 800-628-2909
Hearing Impaired: 800-743-3333

Additional Resources:

Fair Housing Acts and Regulations

You may request a copy of the Indiana Fair Housing Act, the Indiana Civil Rights Law or any of the accompanying regulations from the ICRC.

Indiana Civil Rights Commission
Indiana Government Center North
100 N. Senate Avenue, Rm. N103
Indianapolis, IN 46204
Toll free: (800) 628-2909
Hearing Impaired: (800) 743-3333
web site: <http://www.IN.gov/icrc>

For a copy of the Federal Fair Housing Amendments Act see the web site:
<http://www.usdoj.gov/crt/housing/title8.htm>

You may also request a copy of the Fair Housing Act and HUD's regulations from the Indiana HUD office.

U.S. Department of Housing and Urban Development (HUD)
151 N. Delaware, Suite 1200
Indianapolis, IN 46204
317-226-6303

Fair Housing Rights and Complaints

For a summary of a person's rights under the FHAA see the web site:

<http://www.hud.gov>
(click on "Fair Housing" and "More on the Fair Housing Act")

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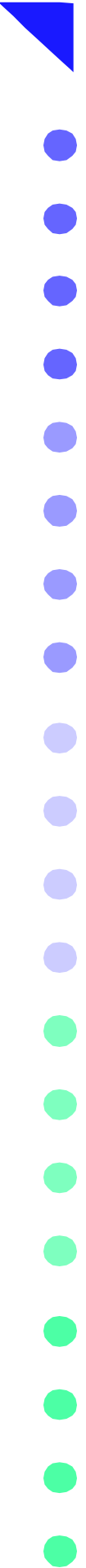
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